



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA  
1516 NINTH STREET, SACRAMENTO, CA 95814  
1-800-822-6228 – [WWW.ENERGY.CA.GOV](http://WWW.ENERGY.CA.GOV)

COMPLAINT & INVESTIGATION  
**CALICO SOLAR PROJECT**  
CALICO SOLAR, LLC

DOCKET No. 11-CAI-01

DOCKET

JUN 15 2011

RECEIVED 

## SERVICE OF COMPLAINT AND SCHEDULING ORDER

On June 8, 2011, Complainant BNSF Railway Company ("BNSF") filed a Verified Complaint to Revoke Certification ("Complaint"), requesting the Commission to revoke the December 1, 2010 certification of the Calico Solar Project (08-AFC-13)("Project"). BNSF alleges alternatively that the applicant and Respondent, Calico Solar, LLC ("Calico") 1) made material false statements in its application or supplemental documentation in violation of Public Resources Code, § 25534(a)(1), and/or 2) has significantly failed to comply with the terms or conditions of the certification in violation of Public Resources Code, § 25534(a)(2), and further asserts that either allegation justifies the revocation of the certification. This order is issued under authority granted to the Chairman of the California Energy Commission under Title 20, California Code of Regulations § 1232.<sup>1</sup>

The allegation that Calico made material false statements in its application and supplemental documentation is brought pursuant to Section 1231 as a complaint "alleging the violation of a statute." The allegation that Calico has significantly failed to comply with the terms and conditions of the certification must be filed solely in accordance with Section 1237. (Section 1231.) Pursuant the procedures set forth in Sections 1231, 1232 and 1237:

### Service of the Complaint and Answer

1. Complainant is directed to perfect its Complaint by submitting a declaration dated, signed, and attested to by an officer of BNSF pursuant to Section 1231(b)(8). Such declaration shall be filed within five business days of this order and served upon the Energy Commission Chief Counsel and filed with the Energy Commission Docket Unit, or the Complaint will be dismissed without prejudice for insufficiency.
2. Upon receipt of the declaration of BNSF, the Docket Unit is directed to immediately serve the Complaint upon the compliance project manager pursuant to Section 1237(a).

<sup>1</sup> All regulatory references herein shall be to Title 20 of the California Code of Regulations unless otherwise indicated.

### **Commission Response to the Complaint filed pursuant to Section 1231**

3. In accordance with Section 1232(a), the Energy Commission Chairman or committee assigned to this proceeding must take either of the following actions within 30 days after BNSF's perfected Complaint is received by the Energy Commission Chief Counsel:
  - a. Dismiss the matter upon a determination of insufficiency or lack of merit of the pleadings (specifying whether the dismissal is with or without prejudice); or
  - b. Serve the Complaint upon Calico and other persons identified in Section 1231(b)(7).

If Calico is served with the perfected Complaint as discussed in item b, then within twenty-one (21) days after such service it shall file and serve an Answer with BNSF, the Energy Commission, and all persons identified in Sections 1231(b)(7) and 1232(a)(2).

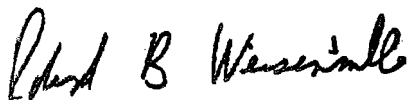
4. The governing procedures for the resolution of the Complaint filed pursuant to Section 1231 shall be those codified at Sections 1200 through 1236.5, together with the informal hearing procedures in Article 10 of the Administrative Procedures Act (Government Code, §§ 11445.10 through 11445.60).

### **Investigation of the Complaint filed pursuant to Section 1237**

5. The Energy Commission Staff shall also complete an investigation of the allegations that Calico has significantly failed to comply with the terms and conditions of the certification, and shall file a report of the investigation pursuant to Section 1237(b) no later 30 days after the receipt of the perfected Complaint by the compliance project manager.
6. Pursuant to Section 1237(d), any person may submit written comments on the Complaint or staff report within 14 days after issuance of the staff report.
7. Resolution or further proceedings of the Complaint filed pursuant to Section 1237 will be in accordance with to the procedures in Section 1237(e).

It is so **ORDERED**.

Dated: June 14, 2011, at Sacramento, California.



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ROBERT WEISENMILLER  
Chairman  
California Energy Commission



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COMMISSION OF THE STATE OF CALIFORNIA  
1516 NINTH STREET, SACRAMENTO, CA 95814  
1-800-822-6228 – WWW.ENERGY.CA.GOV

**FOR THE CALICO SOLAR PROJECT  
AMENDMENT**

**Docket No. 08-AFC-13C  
PROOF OF SERVICE  
(Revised 6/7/2011)**

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**DECLARATION OF SERVICE**

I, **Rhea Moyer**, declare that on **June 15, 2011**, I served by U.S. mail and filed copies of the attached **Service of Complaint and Scheduling Order**, dated **June 15, 2011**. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: **[[www.energy.ca.gov/sitingcases/calicosolar/compliance/index.html](http://www.energy.ca.gov/sitingcases/calicosolar/compliance/index.html)]**.

The documents have been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

**(Check all that Apply)**

**FOR SERVICE TO ALL OTHER PARTIES:**

- ☒ sent electronically to all email addresses on the Proof of Service list;
- ☐ by personal delivery;
- ☒ by delivering on this date, for mailing with the United States Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "email preferred."

**AND**

**FOR FILING WITH THE ENERGY COMMISSION:**

- ☒ delivering an original paper copy and sending one electronic copy by e-mail to the address below (***preferred method***);

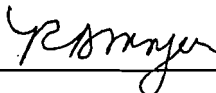
**OR**

- ☐ depositing in the mail an original and 12 paper copies, as follows:

**CALIFORNIA ENERGY COMMISSION**

Attn: Docket No. 08-AFC-13C  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512  
[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

I declare under penalty of perjury that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

  
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